CONTINUING DISABILITY INVESTIGATION PROGRAM

HEARING

BEFORE THE

SUBCOMMITTEE ON SOCIAL SECURITY

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

NINETY-SEVENTH CONGRESS

SECOND SESSION

DECEMBER 8, 1982

Serial 97-90

Printed for the use of the Committee on Ways and Means

U.S. GOVERNMENT PRINTING OFFICE

20-477 O WASHINGTON : 1983

H78122

COMMITTEE ON WAYS AND MEANS

DAN ROSTENKOWSKI, Illinois, *Chairman*

SAM M. GIBBONS, Florida
J. J. PICKLE, Texas
CHARLES B. RANGEL, New York
FORTNEY H. (PETE) STARK, California
JAMES R. JONES, Oklahoma
ANDY JACOBS, JR., Indiana
HAROLD FORD, Tennessee
KEN HOLLAND, South Carolina
WILLIAM M. BRODHEAD, Michigan
ED JENKINS, Georgia
RICHARD A. GEPHARDT, Missouri
THOMAS J. DOWNEY, New York
CECIL (CEC) HEFTEL, Hawaii
WYCHE FOWLER, JR., Georgia
FRANK J. GUARINI, New Jersey
JAMES M. SHANNON, Massachusetts
MARTY RUSSO, Illinois
DON J. PEASE, Ohio
KENT HANCE, Texas
ROBERT T. MATSUI, California
DON BAILEY, Pennsylvania
BERYL ANTHONY, JR., Arkansas

BARBER B. CONABLE, JR., New York
JOHN J. DUNCAN, Tennessee
BILL ARCHER, Texas
GUY VANDER JAGT, Michigan
PHILIP M. CRANE, Illinois
BILL FRENZEL, Minnesota
JAMES G. MARTIN, North Carolina
L. A. (SKIP) BAFALIS, Florida
RICHARD T. SCHULZE, Pennsylvania
BILL GRADISON, Ohio
JOHN H. ROUSSELOT, California
W. HENSON MOORE, Louisiana

JOHN J. SALMON, *Chief Counsel*
JOSEPH K. DOWLEY, *Assistant Chief Counsel*
ROBERT J. LEONARD, *Chief Tax Counsel*
A. L. SINGLETON, *Minority Chief of Staff*

SUBCOMMITTEE ON SOCIAL SECURITY

J. J. PICKLE, Texas, *Chairman*

ANDY JACOBS, JR., Indiana
RICHARD A. GEPHARDT, Missouri
JAMES M. SHANNON, Massachusetts
WILLIAM M. BRODHEAD, Michigan
CECIL (CEC) HEFTEL, Hawaii
WYCHE FOWLER, JR., Georgia

BILL ARCHER, Texas
BILL GRADISON, Ohio
JOHN H. ROUSSELOT, California
PHILIP M. CRANE, Illinois

CONTINUING DISABILITY INVESTIGATION PROGRAM

WEDNESDAY, DECEMBER 8, 1982

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON SOCIAL SECURITY,
Washington, D.C.

The subcommittee met at 2 p.m., pursuant to notice, in room 1100, Longworth House Office Building, Hon. J. J. Pickle (chairman of the subcommittee) presiding.

[The press releases announcing the hearing follow:]

[Press release No. 19 of Tuesday, Nov. 30, 1982]

THE HONORABLE J. J. PICKLE (D-TEXAS), CHAIRMAN, SUBCOMMITTEE ON SOCIAL SECURITY OF THE COMMITTEE ON WAYS AND MEANS, ANNOUNCES A HEARING ON CONTINUING DISABILITY INVESTIGATIONS

The Honorable J. J. Pickle (D-Texas), Chairman of the Subcommittee on Social Security of the Committee on Ways and Means, U.S. House of Representatives, announced today that the Subcommittee will hold a hearing on the Social Security Administration's initiatives regarding continuing disability investigations in the social security disability program.

The hearing will be held on Monday, December 6, 1982, in Room 1100 of the Longworth House Office Building, beginning at 9:30 a.m. Testimony will be taken only from the Commissioner of the Social Security Administration concerning the Administration's initiatives.

In March 1981 the Administration began an intensive review of those on the disability rolls—a ten-month speedup of a comprehensive review ordered by Congress in Public Law 96-265. Substantial administrative and program difficulties became apparent in the operation of this accelerated review and both the House Ways and Means Committee and the Senate Finance Committee approved legislation this year to address some of these problems. In the past several months the Administration has also announced several initiatives aimed at improving the review process. Many of these initiatives parallel or are similar in theory to directives contained in the bills passed by the two Committees. The Subcommittee will explore these initiatives, their impact on the review process, and their implication for legislative action.

[Press release No. 21 of Friday Dec. 3, 1982]

THE HONORABLE J. J. PICKLE (D-TEXAS), CHAIRMAN, SUBCOMMITTEE ON SOCIAL SECURITY OF THE COMMITTEE ON WAYS AND MEANS, ANNOUNCES A CHANGE IN TIME AND DATE OF THE SUBCOMMITTEE'S HEARING ON CONTINUING DISABILITY INVESTIGATIONS

The Honorable J. J. Pickle (D-Texas), Chairman of the Subcommittee on Social Security of the Committee on Ways and Means, U.S. House of Representatives, announced today a change in the time and date of a previously announced hearing. The Subcommittee's hearing on the Social Security Administration's initiatives regarding continuing disability investigations in the social security disability program, originally scheduled for Monday, December 6, 1982 at 9:30 a.m. *has been re-scheduled for Wednesday, December 8, 1982, at 2:00 p.m. in room 1100, Longworth House Office Building.* As previously announced, testimony will be taken only from the

Commissioner of the Social Security Administration concerning the Administration's initiatives. *For additional information, please refer to press release number 19 issued earlier by the Subcommittee.*

Chairman PICKLE. The Chair will ask the subcommittee to come to order.

We are pleased to have with us today Paul Simmons, Deputy Commissioner of the Social Security Administration.

I will ask you, Mr. Simmons, if you will take your seat. We will proceed with a preliminary statement.

At the beginning of this year this committee became concerned about problems with the disability reviews being conducted by the Social Security Administration. Implemented 10 months ahead of schedule, the lack of adequate preparation clearly was causing chaos in the State agencies and havoc among beneficiaries. Although many beneficiaries who had their benefits terminated are not being returned to the rolls, in other cases mistakes clearly were made.

The committee moved to address the problem. It sought to extend additional benefits to those whose benefits were being terminated. It sought to provide uniform standards for decisions so that beneficiaries would be treated equally at all levels and in accordance with the law. It sought to provide for an earlier face-to-face contact at the reconsideration level between the beneficiary and the decisionmaker, and it sought to provide for the earliest possible development of medical evidence so the beneficiary could get his case settled at the earliest practical moment.

These were the objectives of the legislation which was reported this summer from the Ways and Means Committee. While there has been a general agreement on these objectives, there has not been a general agreement on how best to achieve them, and action on the legislation has not been completed.

The Senate last week passed by a vote of 70 to 4 a so-called stopgap bill, H.R. 7093, chiefly to continue benefit payments for those appealing their termination decisions. This bill is intended to be a temporary measure pending resolution of a larger reform bill. Whether we can make progress now beyond this temporary measure is still open for discussion.

Pending congressional action, the Administration has not been idle. It has instituted several important procedural changes and reforms on its own to try to meet the concerns and objections being raised about the disability reviews.

Today our chief focus is on these administrative initiatives. Before the Congress can decide its best course from here, I felt we should get as much data as we can on the changing situation regarding these reviews.

Many of the actions taken by the Administration were outlined in a September 16 Administration letter to Senator Dole, which I will insert in the hearing record.

I hope today that we can look for as many pertinent facts as possible in a dispassionate way so that we can come to some resolution as soon as possible on the proper course for the Congress. It is imperative, I think, that in providing relief to individuals being reviewed we assure the development of an equitable and workable procedure for handling these reviews in the future.

[The letter referred to follows:]

THE COMMISSIONER OF SOCIAL SECURITY,
Baltimore, Md., September 16, 1982.

Hon. ROBERT J. DOLE,
Chairman, Senate Finance Committee,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As you know, the Administration shares your concern and that of other members of the Finance Committee with regard to the fair and equitable carrying out of the provisions of the 1980 Amendments for better assuring the integrity of the Social Security disability rolls through the periodic review of the continuing disability status of people receiving disability benefits. This process of continuing disability investigations—the so-called CDI process—has been a source of major concern to us, as well as to the Congress and the public generally and we have been moving in both legislative and administrative areas to deal with problems that have arisen in this area.

Secretary Schweiker and I have been strongly supportive of major elements of a Ways and Means Social Security Subcommittee bill, now awaiting action in the House, that would lead to improvements in the quality and fairness of the CDI process. We feel that the House bill—H.R. 6181, with provisions paralleled in several bills pending before the Senate—would provide us with the additional tools necessary to accomplish this.

However, pending completion of action on that legislation, we have given the very highest priority to those actions which we can take administratively—in close concert with the States—to implement a fundamental reform of the CDI program. These reforms will, I believe, go a long way toward solving many of the problems and resolving many of the issues that have led to the current concern about the CDI process.

Indeed, these reforms will take us about as far as we can go toward those ends without substantive legislation along the lines of the provisions in H.R. 6181 that we support to correct some of the anomalies in present law and practice which have helped make this program far more complex and controversial than any other administered by this agency.

Twelve major steps SSA is taking to reform the CDI process are as follows:

1. In March, SSA initiated a policy of determining that, in general, a person's disability ceases as of the time the beneficiary is notified of the cessation. This change reduces situations where the beneficiary is faced with the need to pay back past benefits because of a retroactive determination.

2. Since May, SSA has mandated that States review *all* medical evidence available for the past year—a directive which ensures that every State is looking at every piece of evidence that might be pertinent to a case.

3. SSA has underway, in two States, a study to test the value of obtaining more than one special mental status examination in cases where evidence from the beneficiary's treating source is incomplete or inadequate. This is intended to determine whether a person's mental condition can drastically change from one day to another. One criticism of SSA's practice of getting only one mental status examination is that it gives a misleading "snapshot" of a person.

4. Since March, SSA has required State agencies to furnish detailed explanations of their decisions in all cases in which a person's disability has ceased.

5. To insure quality in CDI cases, SSA conducts a quality review of a sample of cases before benefits are stopped. In June 1982, SSA doubled the number of quality reviews of termination cases. The quality has been holding very high at 97.5 percent. In addition, to demonstrate the importance of quality in the CDI process, SSA established an interim accuracy goal for the State agencies without waiting for publication of regulations.

6. SSA has consistently monitored State agency resources and workloads closely and adjusts the flow of cases to the individual States to avoid backlogs when problems have arisen in their acquiring adequate resources. The selective moratoriums on new CDI cases that SSA has implemented for August and September (and even earlier in some States) has been easing problems in specific States that have had unusually large backlogs.

7. Starting in October, SSA will use a new procedure for beginning a CDI review: each beneficiary will have a face-to-face interview with an interviewer in the local Social Security office. The interviewer will explain how the review works and what the beneficiary's rights are, obtain information about the beneficiary's medical care and treatment and current condition, and—in some cases—conclude the review

process where it is clearly warranted based on the beneficiary's current medical condition.

This will correct the single most glaring anomaly in the CDI process. Recipients whose cases are selected for review under the 1980 Congressional mandate rarely, if ever, come face-to-face with a decisionmaker until and unless the case is pursued to the third level of review and appeal—a process which may drag on as much as 6 months to a year after benefits have been stopped. This one flaw in the program is perhaps more to blame than any other factor for the seemingly senseless "horror stories" we have all seen from time to time of people being dropped from the rolls despite glaringly obvious disabilities.

8. To improve the quality of determinations in difficult cases where it is necessary to determine a person's capacity to do work-related activities despite a severe impairment, SSA is requiring that the determinations as to remaining capacity be more detailed and explicit so that the basis for the final decision is clear.

9. SSA has taken many actions to improve the quality of consultative examinations purchased by the Government in cases where medical evidence from a person's physician is unavailable or incomplete.

10. SSA has been very sensitive to the need for special handling of cases involving psychiatric impairments. SSA has met with mental health groups to obtain their recommendations for improvements and is reevaluating all guidelines for evaluation of mental impairments. SSA has also encouraged the States to increase the number of psychiatrists on their staffs in order to enhance their ability to review cases involving mental impairments. Secretary Schweiker has asked the American Psychiatric Association for assistance in recruiting psychiatrists for the States.

11. SSA has added more than 140 Administrative Law Judges to what is already perhaps the largest single adjudicative system in the world, bringing their total number to more than 800 and providing them with significantly more support staff to help reduce the backlog of cases that has been a chronic problem in past years.

12. Based on our findings in the first year of the CDI program, SSA has broadened the definition of the permanently disabled who need not be subject to the every-three-year CDI process mandated under the law. As a result, SSA expects to exempt an additional 165,000 beneficiaries from the CDI process during the next fiscal year—which will mean reducing the total from about 300,000 to about 640,000, a major reduction in workloads for the State agencies.

In summary, we believe that with the implementation of these administrative steps, we can very substantially improve the quality and the fairness of the CDI process, prevent the kinds of mistakes that have lead to true horror stories and given rise to some exaggerated concerns, and move toward guaranteeing the integrity of the disability rolls in a way that is equitable and humane as well as effective and efficient. While we do support legislation—such as the provisions we have sought in H.R. 6181, including face-to-face evidentiary proceedings at the very first level of appeal—to enable us to further improve the process, we believe that with the steps outlined above, substantial progress is now being made.

Sincerely,

JOHN A. SVAHN.

Chairman PICKLE. Mr. Simmons, we are glad to have you with us. We will ask you to proceed now to make your statement on behalf of the Administration to indicate to us what and how you are handling these various procedural changes we have just mentioned.

STATEMENT OF PAUL B. SIMMONS, DEPUTY COMMISSIONER FOR PROGRAMS AND POLICY, SOCIAL SECURITY ADMINISTRATION, ACCOMPANIED BY LOUIS B. HAYS, ASSOCIATE COMMISSIONER FOR HEARINGS AND APPEALS; AND PATRICIA OWENS, DIRECTOR, OFFICE OF DISABILITY PROGRAMS

Mr. SIMMONS. Thank you, Mr. Chairman. I am accompanied by Louis B. Hays, and Ms. Patricia Owens——

Chairman PICKLE. Mr. Hays has been with us many times before. Ms. Owens has been here many times before, at one time on our staff. That might have been a better position for you. We are glad to see you on this side of the table, too.

Mr. SIMMONS. She is now our new director of the Office of Disability Programs, as you know.

With your permission I am submitting for the record a very detailed statement which outlines many of the steps we have taken over the last year to improve the quality and fairness of the continuing disability investigation program. That statement is similar to those we have submitted at 11 other hearings on the CDI program held here in Washington and at field hearings on the subject around our nation over the past 15 months.

In all of these hearings we have tried repeatedly to establish the facts at issue here. I think I need not take this committee's time to repeat every detail of those facts, but I would like to take a few moments today to respond to some of the criticisms that have been leveled against the Social Security Administration and the 50 State disability determination agencies that have been struggling to carry out the mandate of the Congress on CDI's. I would like to use a part of this time to discuss very briefly a 10-part series of major steps that we are taking in close concert with the States and in cooperation with this committee to implement a fundamental reform of the CDI program as fast and as far as we can go within the confines of the law we have.

Chairman PICKLE. Before you proceed, Mr. Simmons, I want you to summarize as much as you can. But we also want to follow you. I would like to follow you from your testimony, as you proceed. Can you tell us where you are with respect to your statement, so that we might be able to not only hear you but to kind of follow your testimony?

We want to know, maybe make notes on our own copy. Can you do that?

Mr. SIMMONS. I have a disadvantage here in that I am reading from another piece of paper, but I do have one copy I could give you.

Chairman PICKLE. That would be fine. As you proceed—

Mr. SIMMONS. I have submitted a statement for the record with a great amount of detail. This is a summary. Let me give this to you. These reforms I want to outline for you which Secretary Schweiker and Commissioner Svahn have made a top priority of this agency—will, I believe go a long way towards solving many of the problems and resolving many of the issues that have led to this hearing being held today.

Indeed, these reforms will take us about as far as we can go toward those ends without substantive legislation to correct some of the anomalies in present law and practice which have helped make this program far more complex and controversial than any other administered by this agency.

As you know, Secretary Schweiker and Commissioner Svahn have been strongly supportive of major elements of the Ways and Means Social Security Subcommittee bill which we know is still awaiting action in the House. We had hoped that the House bill, H.R. 6181, with provisions paralleled in several bills pending before the Congress would be the law of the land by now. Certain provisions of that bill, along with the steps we are taking administratively, will be critical to the integrity of the program and the fairness of the CDI process.

It is these two issues, fairness to recipients and program integrity, which we believe must be the basis of any changes made in this program, whether we do them by administrative reform or whether you do them by legislative reform. The reforms I am outlining for you today carry out to the extent that we can the spirit and intent embodied in the committee's bill. In some cases, these reforms will take us even further than the bill would take us if and when it is enacted.

First, we began as of October 1 of this year to correct the single most glaring anomaly in the CDI process. That is, that recipients whose cases are selected for review under the 1980 congressional mandate rarely if ever came face to face with a decisionmaker until and unless the case was pursued to the third level of review, a process which could drag on as many as 6 months to a year after benefits have been stopped.

This one flaw in the program was perhaps more to blame than any other factor for the seemingly senseless horror stories we have all seen from time to time of people being dropped from the roles despite glaringly obvious disabilities. The House bill would mandate a face-to-face evidentiary hearing at the reconsideration level. That is a provision, as you know, we strongly support.

But we believe that a person whose case is selected for review should also come face to face with a responsible Government representative right at the start of the process in his or her local Social Security district office before the case is sent on to the State agency for review. We do want to make sure that each recipient is fully aware of what the process is all about, why it is happening at all, how important it is to provide the State agency with all available medical evidence, and that each recipient is equally aware of his or her rights and responsibilities.

We also want to make sure—right up front—to the extent possible, short of a medical examination, that each case sent to a State agency is indeed an appropriate case for review. This is a major new responsibility for our 1,350 local offices, but it is one we believe we must take on, and we have taken it on for the good of the beneficiary and the integrity of the program.

Early reports indicate that this new policy is indeed working, and at many of our offices we are now stopping as many as 5 percent of the reviews before they are even started.

Chairman PICKLE. Mr. Simmons, because we may have interruptions, I have members here that want to follow this. I hope you won't mind if we kind of change the procedure.

Mr. SIMMONS. Sure.

Chairman PICKLE. In effect, you are saying all the cases now being subject to review, that there is a face-to-face hearing at the district level?

Mr. SIMMONS. At the very front of the process.

Chairman PICKLE. How long has that been in effect?

Mr. SIMMONS. We started that October 1. It is now nationwide. We are doing it within current budget confines. We are redirecting resources to do this.

Chairman PICKLE. I understand you had started this earlier in other States, but you couldn't do it at all. But now it is a policy you are doing it in all offices throughout the United States?

Mr. SIMMONS. We are doing it in all offices throughout the country. What we are doing—this is not a hearing, per se. But what this is is an introduction of the person to the process, to the system. Our people help them fill out forms. We even send people out to their homes if they are unable to come in to see us, to go out and fill out the forms and make a judgment. It is a lay judgment at this point but we are finding about 5 percent at least should not be reviewed and, therefore, we are stopping the review right there.

Chairman PICKLE. That is good. Now this in no way would take away from the additional support you give to the proposition that there should be face to face at the reconsideration level?

Mr. SIMMONS. That is correct, sir. We would like the reconsideration level to become a truly evidentiary proceeding.

Chairman PICKLE. Thank you. You may proceed.

Mr. SIMMONS. The second major step we have taken in anticipation of your action on an acceptable version of the bill that has moved through this committee, is that we are moving to develop planning for the kind of face-to-face evidentiary hearing envisioned for the reconsideration level of appeal in your bill. We are working with the States and with Members of Congress and their staffs in discussing this program to reform all other aspects of the reconsideration process and to convert it from what it is now, a largely paper-oriented review, into a people-focused review that would go a long way toward insuring that first level appeals are full, fair, and fast, and based on all medical evidence available.

Even if the Congress fails to act on this idea, we will move as far as we can to do as much as we can to make this process work better for both the recipient and the taxpayer.

Third, we also plan a series of steps to develop special disability expertise in the majority of our 1,350 local offices. Once again, our aim is to insure that our dealings with this recipient population, both those on the rolls and those applying for benefits, are as fair, helpful and effective as possible. These steps are making it clear to our people that disability is a major program priority of the Commissioner, and that we are indeed serious about the reforms that we are trying to implement throughout the system.

In all of these actions, I must note, we do not intend to supplant but rather to supplement the good work of the State disability determination agencies. Their partnership with us is one of the most unique and productive among all Federal-State programs. All of these reforms are designed only to make that partnership more productive. Indeed, much of our reform program is based on the sound advice of proven expertise of several State agency administrators who have consented to serve as advisors to us in this effort. That process is going on constantly.

The States, like the Social Security Administration, want this program to be as fair to the recipient and responsible to the taxpayer as we can possibly make it.

Chairman PICKLE. Mr. Simmons?

Mr. SIMMONS. Yes, sir.

Chairman PICKLE. I want to say to the members, if you have any questions to ask about a particular point, I will not take away the right to come back and ask any question on any aspect of it. But I think we may be interrupted on some of the debate, so I want to

get comments as we go along. At least I choose to go along in this way at this point.

When you say you adopted a program of intensified training to develop special disability expertise, what do you mean by that? You are trying to put into each office a person, an additional person who is an expert in the disability field in addition to the personnel of the local offices?

Mr. SIMMONS. We are planning a combination of things. One thing is to step up our overall training for all of the claims-taking people.

Chairman PICKLE. Training people in your office then?

Mr. SIMMONS. Yes, sir.

Chairman PICKLE. You are not bringing in outside people as much as you are trying to give special training to the people in the offices today.

Mr. SIMMONS. Where we have to, we envision bringing in more resources. In some areas that are heavily impacted with a lot of disability cases——

Chairman PICKLE. Suppose a district office were to ask for an outside expert to come in. Are you in a position to furnish that to them?

Mr. SIMMONS. You mean like a consulting expert, something like that? We wouldn't be doing that, but we would be bringing in one of our own specially trained persons if there were not somebody in the office who was able and free to be trained in this area. At one time, the agency had more disability expertise scattered around its local offices than it has had in recent years. We are trying to get back to that tradition because some of the problems experienced by the disabled, either in the CDI process or just in dealing with people when applying for disability benefits, are quite different from the problems of other people that we have coming into the office.

So we are trying to make sure that when a person with a disability comes to that office, there is someone there who understands the question and knows how to help him.

Fourth, to help relieve the workloads in those States which have had unusually large backlogs, for one reason or another, of CDI cases to be reviewed, we have exercised a selective moratorium on forwarding new cases to these States. In August, for example, we forwarded only about one-third of the normal number of cases to the States nationwide. In September, we stopped forwarding all cases for 1 month altogether in preparation for the beginning of our new face-to-face interview process. Beginning in October, all new cases have been sent directly to our district offices.

One point I would like to make in connection with this, sir, is that we have been criticized over time for having started the disability review process 8 months before the statutory time for starting the process. What we did, we did that for two reasons. One was that at the same time this process was started, in March 1981, the GAO was urging us to take all available resources that we could and redirect them towards this program, because the GAO viewed this as a crisis situation in the caseloads.

Second, it was a question of mathematics. By starting months earlier, we could spread out the workload over a longer period than

the 3 years that was envisioned in the law, because it has become pretty obvious in doing this that if we had waited until January 1982 to start this program nationwide, we would have had to compress 400,000 or 500,000 more cases into the 3-year time frame than we now have to because we did start early.

Chairman PICKLE. You are administratively, in effect, slowing down the CDI process?

Mr. SIMMONS. That is correct, sir.

Chairman PICKLE. First, do you believe you have the authority to do that?

Mr. SIMMONS. Well, we do, because we started early and, in effect, took care of a lot of cases up front in 1981. We have the flexibility——

Chairman PICKLE. Even though you brought on additional problems to yourself when you did move it up.

Mr. SIMMONS. But we do have enough flexibility now to do some selective moratorium activity like this.

Chairman PICKLE. If you slow down the schedule as you have indicated to us, handling it as you have indicated——

Mr. SIMMONS. Yes; we still believe we can complete the entire process within the 3-year period set in the law. But we can only do this kind of selective moratorium because we were a little bit ahead of where we would have been now.

The fifth major step we have taken is that after examining the findings from the first year of the CDI program we have been able to identify those cases that, obviously, should not be reviewed as temporary disabilities. We have been able, therefore, to broaden our definition of the permanently disabled who do not need to be subject to the every 3-year CDI process. As a result, we expect to exempt at least an additional 165,000 beneficiaries from the CDI process during the next fiscal year, which is about a 20-percent reduction from the 806,000 cases that we had originally planned for.

We are looking very hard at further findings from our experience in the first year to see if we can broaden that definition even more and, therefore, reduce even further the number of CDI cases that will be going through the process.

The other five elements of our reform program have been in place for several months.

Chairman PICKLE. Mr. Simmons, I want to interrupt you once more because you are starting out on testimony of several other steps you have taken. Is the testimony you are going to submit now being in further explanation of the, in effect, the exemption, or new definition of the reviews? Are you going to talk about the number you have exempted? Are you going into other aspects of it now?

Mr. SIMMONS. No; I could talk about that now. These are five other steps we have taken. Then my testimony will be completed.

Chairman PICKLE. In effect, you are saying that you have about 165,000 additional people through the definition you have now arrived at who would be "permanent", or not need to be called in. Thus you would not have to call in roughly 800,000 a year but about 640,000?

Mr. SIMMONS. 640,000.

Chairman PICKLE. Thus, if you adopt that you could maintain the schedule mandated by the Congress, you think, within that time frame?

Mr. SIMMONS. The object of this was first of all to exempt those people who obviously should not be put through the process.

Chairman PICKLE. Yes.

Mr. SIMMONS. Until we had gone through the first year's experience, I will be very frank, we didn't have enough information in the files to determine what kind of cases some of those people represented.

Chairman PICKLE. That one step has probably caused us more trouble than any other one thing that happened. But I am glad you are taking this procedure.

Mr. SIMMONS. By reducing that number by 20 percent, by broadening that definition, that is a material relaxing of the program. We believe it is the best thing to do from a programmatic point of view. As I said, we will try to expand even further that definition if it is at all possible, without harming the integrity of the program.

Chairman PICKLE. Mr. Gradison?

Mr. GRADISON. Could I ask a question on the same point?

Chairman PICKLE. Absolutely.

Mr. GRADISON. Mr. Simmons, has the selection of cases for review been essentially random with regard to the severity of their disability pretty much throughout? Or when you started the review process did you have a certain group that you selected to go after harder because of some reason to believe that they might not have been entitled to the payments?

Mr. SIMMONS. The way it was done was we developed some profiles of those who most likcly should be reviewed. Those would be people, for example, who were relatively young, in their 40's. They had relatively high benefit amounts which means they probably had relatively high income and education. We don't know from our files about education level but we can often infer that from their income. It's a guess. The assumption is, if a person is relatively young and has had relatively high income when he or she was in the work force then that person probably has more ability and incentive to go back into the work force than someone much older. So our first effort has been concentrated on cases with those kinds of characteristics.

One of the reasons the denial rates have been so high at the early part of the program has been because that population was so susceptible to being ineligible. As the program goes on the cessation rate will drop very sharpy, probably to below one in five, because by then we will have exhausted those most likely to be terminated.

Mr. GRADISON. Thank you, Mr. Simmons.

Chairman PICKLE. Thank you, Mr. Gradison.

Mr. Secretary, will you proceed?

Mr. SIMMONS. To summarize the other steps we have taken very briefly:

First, we have doubled our number of reviews of State agency actions to deny or cease benefits to individuals. Under present law, as you know, we are required to review only favorable State agency decisions, meaning those decisions which allow a person to contin-

ue on the rolls. We believe this is an anomaly that can obviously skew a close call decision on the part of the State. The State's attitude could become, well, "if it is a doubtful case and I allow the case to continue, I will be reviewed. But I won't be reviewed if I cease the case." So the temptation may be to cease the case.

The House bill, as you know, would mandate we review a mix of favorable and unfavorable decisions, something we are already doing, in effect, to ensure that the decisionmaking in the CDI process is as neutral as humanly possible. Indeed we strongly hope the Congress will act in this session on that portion of the committee's bill which would repeal the requirement that we move to a 65-percent review of cases where benefits are continued and let us instead divide our resources more equitably and more sensibly between reviewing those who are continued and those who are denied by the State agencies.

Second, since March, we have stopped the past practice, which I found repugnant, of trying to recoup payments from individuals who were removed from the rolls all the way back to the date of their earliest possible cessation of disability even though that cessation wasn't determined until years later.

This is also a provision, as you know, of the pending House bill. We don't believe it is necessary to be enacted, but we certainly would support enactment of it. Under this policy, we now stop payments at the time the person is removed from the rolls. We only go back to recoup a retroactive payment if it is clear that there has been outright fraud or there is other good reason to try to recover past payments.

Third, since last May we have mandated that States review all medical evidence available dating back for at least a year. That is a directive which ensures or helps ensure that every State is looking at every piece of evidence that might be pertinent to a case.

Fourth, we have added——

Chairman PICKLE. Let me ask a question at that point, Mr. Secretary.

Mr. SIMMONS. Yes, sir.

Chairman PICKLE. Some argue we ought to be able to have to go back and review the medical evidence not for 1 year, which I am glad to see that you are doing, I think that is a fair step, they want to go back and say you have got to review all medical evidence for the last 5 years or 10 years. What would be your position if that would be a requirement?

Mr. SIMMONS. Our interpretation of the law is that the law is very clear, that disability is defined as the inability, now, to enter the job market in any capacity, and to go back 5 years or 10 years in medical history may or may not tell you something about the person's past. But it doesn't say much necessarily about the medical state of the person's abilities today. You have to look—even if you do go back 5 years—you still have to look at what it says today.

The symptoms have to be there, and handicap has to be there, and the disability has to be there. Otherwise the person doesn't meet the letter of the law.

Mr. SHANNON. Mr. Chairman?

Chairman PICKLE. Mr. Shannon?

Mr. SHANNON. On this point, I think we are talking about a problem that was addressed in the amendments adopted by the Senate, Senator Levin's amendment as amended by Senator Long. Does the Administration have a provision on either provision?

Mr. SIMMONS. As I understand it, the Senate amendment says we are to look at all evidence in the file before making a decision. What we do now is to look at all relevant information in the file. Some may be 5 years old. It may be a diagnosis that says this person is permanently blind and there is no possibility of treatment for it.

In that case we do look at all the evidence in the file. We have no problem with looking at all evidence in the file because we believe we are looking at all relevant evidence now.

Mr. SHANNON. The Levin language you have no objection to?

Mr. SIMMONS. We have no objection to it, if I understand its intent. Its intent is to make sure anything in the file that is relevant is regarded——

Mr. SHANNON. How about the Long language, which I think deals with the court case that came down in the 11 circuit? Do you have a position on that?

Mr. SIMMONS. Our position on the medical improvement issue has been quite consistent all along. If you have a medical improvement clause in the law, it should meet all of the problems that are inherent in that concept—for example, is it medical improvement if a person, say, had a myocardial infarction 10 years ago but since then there has been a available therapy and medicines that would make that person able to go to work today, and the person declines to avail himself of that therapy, then you would take him off. That would be an exception.

In some negotiations with members of the Senate staff we had a whole laundry list of exceptions. By the time you finish writing a clause like that that would be effective you have done effectively what is present policy. But you have mandated a series of steps and series of bureaucratic actions to be taken for no purpose other than to reflect what is obviously good common sense.

Mr. SHANNON. Since this was from a court decision, let me ask you whether you intend to appeal the ruling or——

Mr. SIMMONS. I am sorry, I am not accompanied by my counsel today and Mr. Hays is not familiar with the details of the case. But I know there are a number of cases that have come up over the years, some of which have gone to the Supreme Court and become law of the land. Before a case reaches its fullest maturity at that level, our counsel with the Department of Justice makes the determination on whether we will appeal it, if it appears to be a widespread SSA principle. We may also decide to announce that we nonconcur with it and that we will not apply the decision to other claims.

I can give you a piece of paper on this after the hearing.

[The paper referred to follows:]

In *Simpson* v. *Schweiker*, decided on November 12, 1982, by the United States Court of Appeals for the eleventh circuit, the court held that if the evidence in this Social Security disability case was substantially the same as the evidence in the initial case, no substantial evidence exists to support a termination of disability bene-

BEST COPY AVAILABLE

fits. SSA has not decided whether or not to recommend that the decision in *Simpson* v. *Schweiker* be appealed.

Mr. SHANNON. I would appreciate that. The concept of the Levin language, without pinning it down to the specific language, is something that you are comfortable with?

Mr. SIMMONS. The concept, if I understand it correctly, is to review all evidence in the file. If by that I can assume "relevant evidence", we would have no problem with it.

Mr. SHANNON. Thank you very much, Mr. Secretary.

Chairman PICKLE. Let me expand on this point a little bit more because we are talking about the Levin and we are also talking about the Long amendment that was put in. Some Members of Congress have contended, and other Members of Congress, that we must adopt a policy that says that you cannot terminate anyone unless you can show that there have been medical improvement, show it as of now.

Would you be for or against that proposition?

Mr. SIMMONS. We would be against having the law state that.

Chairman PICKLE. Now, the Long amendment, in effect, says that you can terminate somebody without having to show there was or wasn't medical improvement. We have a conflicting position. You have the Levin amendment on one hand and the Long on the other. How do you reconcile them? Are you better off not getting into that field?

Mr. SIMMONS. The Levin amendment addresses the issue which has been raised, and, I think, rightfully so, that every once in a while, in some of these horror stories we hear about, people are making mistakes out there. That is obvious. Sometimes some State worker or some Federal worker may not be looking at something in the file that should be looked at in the file.

Our policy is that you look at anything in the file that is relevant to the disability today. And I think what the Levin amendment is saying is make that the law of the land. As I have said, that is our policy, and our directive.

Chairman PICKLE. Does Mr. Hays or Ms. Owens want to comment on this part of it? This is a sticky point with some of the members. I would regret Mr. Svahn is not able to testify because I want a clear statement from the Administration with respect to the so-called Levin amendment or Levin-Long amendment, or whoever put it together over there. We are talking about some possibilities of trying to resolve some of these differences.

I would like to know your position on this.

Mr. SIMMONS. I will give you our position in general. We will be glad to provide you a letter to this effect. But our position in general is that after 15 months of hearings and looking at this program—and I have only been associated with it 15 months myself—it has been almost a constant source of concern on the Hill, and the press, and here and everywhere, and rightfully so. But I think after all this time all of us know what the problems are in the system.

I think the bill originally adopted by this committee addressed the problems very well. We really regret this bill has not become the law of the land. We believe the bill that has come over here from the Senate will not do as much as the House bill to address

the fundamental problems in the program. The reconsideration process, for example, this bill will put that problem off for another year.

Chairman PICKLE. You say you regret this bill hasn't become the law. You have in mind H.R. 6181?

Mr. SIMMONS. That is right, sir.

Chairman PICKLE. If this bill, the Senate bill, were to pass, it would prolong the process?

Mr. SIMMONS. I think the Senate bill will prolong or delay.

Chairman PICKLE. You may be faced with the problem of making a decision. That bill, 7093, or whatever its number, may be before us.

Mr. SIMMONS. I understand that.

Chairman PICKLE. We want to know, I do, as chairman of the committee, and I am sure all the members want to know specifically what you want, how you feel about it. It seems some of the things the Levin amendment has recommended you are doing now and could accept.

Mr. SIMMONS. Yes, sir, that is the case with the Ways and Means bill. We were also doing administratively some of the things in your bill.

Chairman PICKLE. Yes.

Mr. SIMMONS. For example, the definition——

Chairman PICKLE. Am I interpreting you correct to say one aspect of it you have some reservation about or would object to would be the medical aspect of it?

[Pause.]

Mr. SIMMONS. The bill was amended by Senator Long to make it explicit that congressional intent in this area was not to be construed as meaning one has to show medical improvement. That has been a long continuing issue, as you know, in the history of this program.

At times over the history of the program, the agency has moved administratively to have to show medical improvement and then gone back from it because there were so many problems associated with the issue.

The part of the bill which really gives us a major problem is the idea of continuing payments to the claimant all the way up to the ALJ level without making any other reforms in the process.

Your bill would have allowed payments for up to 6 months to a meaningful reconsideration process, or a better reconsideration process. We strongly supported that even though it would cost more money. As a matter of fact, your bill would not cost that much less than this bill in total, but the problem is, the Senate bill is just a band aid. Your bill was surgery.

Chairman PICKLE. May I ask, obviously you know, I would have hoped we could have moved forward on 6181 but we had a very sensitive, emotional area of changes, hurts and discomforts, if not out and out tragedies occurring in the disability field.

It is very difficult to reach a decision. Is it possible to take the Senate bill and combine it with our bill, 6181, and make it into one package even in the remaining days of the session?

Is that a possibility from the administration's viewpoint?

Mr. SIMMONS. If that could be done, we would welcome it, however you would do it. I don't recall what your parliamentary situation would be on that.

Chairman PICKLE. It would be difficult, of course.

Mr. SIMMONS. We would look forward to working with you to pick up those pieces of the House Ways and Means bill that everyone could agree on.

Chairman PICKLE. I think this colloquy on the Levin-Long amendment, has been very helpful. I am glad to know your position on it. I still want you to give me a letter.

When will Commissioner Svahn be back in town?

Mr. SIMMONS. He will be here tomorrow.

Chairman PICKLE. By Friday, then will you get to us a statement of your position on the Levin-Long, or Senate bill, any other recommendation about the general disability problem?

Mr. SIMMONS. We will address also the provisions in your bill which we think would be helpful.

[The information follows:]

The administration advises that it was not possible to submit the formal statement requested prior to December 14, 1982 when the House passed an amended version of H.R. 7093.

Chairman PICKLE. That will be helpful. Will you proceed?

Mr. SIMMONS. The fourth step we have taken is to add 140 administrative law judges to what is already perhaps the largest single adjudicative system in the world, bringing their total number to more than 800, and providing them with significantly more support staff to help reduce the backlog of cases that has been a chronic problem in past years. However, I suspect those backlogs will climb once again if the Senate bill by itself becomes the law of the land.

Indeed, I should note here that our sense of management priority is reflected in the fact that we devote more than half of our entire administrative budget to disability program even though it serves only about one-sixth of all of our beneficiary population.

Chairman PICKLE. Now, you have added then, 100 additional.

Mr. SIMMONS. 140 additional ALJ's.

Chairman PICKLE. At this point would it be timely or appropriate to ask you, what is the backlog on cases now on disability? Earlier we had been told, as I recall it, we had about 140,000 backlog. We anticipate by the end of this year the possibility, by the close of the year, around there, upwards of 170,000 to 200,000.

What is the backlog of disability cases now for the ALJ's?

Mr. HAYS. The size of the pending caseload before our administrative law judges at the end of the fiscal year stood at 152,896.

Chairman PICKLE. It is not as high as we were told earlier it might be. Is that because you have added 100 ALJ's, partially?

Mr. HAYS. It is because we have added more administrative law judges, and because each administrative law judge on the average has become more productive.

Chairman PICKLE. I think at this point we have a vote on, but let me ask you, I have a question to ask you. I was going to ask it at the end of the testimony, but this is a good place to ask it.

20-447 O - 83 - 3

You have added 100 law judges. I don't know how many more you want to add. We, obviously, could add another hundred. We could use them.

What can you tell us about the proposed proposal OMB has made to reduce the Social Security staff by 5,000? Was this in authorized positions or full-time equivalent, end of the ceiling or both?

Is Secretary Schweiker appealing this decision, this recommendation from OMB?

Mr. SIMMONS. I have to say it is so early in the budgetmaking process—as a matter of fact, the Commissioner today is working on our budget issues for the coming year. But ours is a workload-driven budget, everything on social security is done on a measure of how many people it takes to do so many functions. We are confident that when the budget process finishes winding its way through, we will have sufficient resources to work the load we have.

Chairman PICKLE. If you had had these reductions of 5,000, it would not have an impact on your review process in the field?

Mr. SIMMONS. As I say, it is so early in the process that any of the numbers floating around in the newspapers and everywhere are really quite meaningless.

Chairman PICKLE. Mr. Simmons, you are saying that you believe you wouldn't make these cuts and therefore we really wouldn't have a problem, you can meet your goals?

Mr. SIMMONS. I believe when we get down to the bottom line and the budget is put to bed up on the Hill——

Chairman PICKLE. You tell Mr. Svahn he better appeal that OMB position. We cannot be cutting any 5,000 people out of the system if we are going to maintain the integrity of the system.

You know that, and I know that. You tell him this committee says you can't make any cuts like that. I hope you don't just sit on the sidelines and bend your head in prayer that it will just work out. You can get a big Mack truck and head down toward the White House.

Mr. SIMMONS. You can bet Commissioner Svahn is not going to stand by the sidelines if anything happens at the end of this process that is going to affect the agency's operations, and I don't believe it will.

Chairman PICKLE. I think I, and I hope my committee and we will make a strong appeal to OMB that this not be done. We are going to get on record. I hope I find you on record.

Mr. SIMMONS. As I said, we are a workload-driven agency. We are confident that when all the dust settles we will have enough people to do the work. It is a unique agency, one of the few agencies——

Chairman PICKLE. The Lord helps those who helps themselves, and the SSA is going to be helped if they help themselves.

Will you now proceed to the fifth item here?

Mr. SIMMONS. Finally, we are moving to insure that all levels of the appeals process, including the administrative law judge system and our Appeals Council are adjudicating cases on the same basis of law and regulations. Thus, we are moving administratively to address a chronic problem of inconsistency in decisions which is also addressed in the House bill, H.R. 6181, via a mandate to us to

do essentially what we are already doing ourselves. But we do support the House bill provisions on this sensitive area because they would enable us to go further than we now can to insure that each level of appeal is as fair and conclusive as possible.

As a final note, Mr. Chairman, I would like to point out that we may well, in the course of the next year or so, change some of the rules that we are operating under. We may well change them in response to congressional interest or legislation. But think it is very important that whatever the rules are, that all actors on this stage are playing by the same rules. And that is why we are moving to adopt as social security rulings the procedures that are mandated on the States and hope that when a person enters the system or approaches the system, at least that person is going to know what the rules are all the way through the process.

On that note, I would like to conclude and answer any other questions. Myself, or Mr. Hays or Ms. Owens will be glad to respond.

[The prepared statement follows:]

STATEMENT OF PAUL B. SIMMONS, DEPUTY COMMISSIONER OF SOCIAL SECURITY

Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to appear before your Committee to bring you up-to-date on SSA's continuing disability investigation (CDI) program and on the major administrative steps we have undertaken to improve the CDI process.

Concern about the CDI program is obvious. This hearing is the 12th hearing in Washington and around the nation during the last 15 months at which we have testified or submitted statements.

Our progress in making administrative improvements in the CDI process has been significant; indeed, we believe we have corrected some of the anomalies that have helped make the disability program more complex and controversial than any other administered by SSA. Perhaps the most significant of these administrative changes is providing for a face-to-face interview with the disability beneficiary at the beginning of the CDI process.

IMPLEMENTATION OF PERIODIC REVIEWS

But before I review our administrative initiatives, I want to summarize where we are in carrying out the congressionally-mandated requirement that we review every 3 years the disability status of beneficiaries, who are not permanently disabled. Since March 1981, when we began periodic review, through September 1982, we have reviewed the eligibility of over 676,000 disability beneficiaries, and more than 265,000 have had their benefits terminated at the initial decisionmaking level.

In fiscal years 1981 and 1982, we significantly increased staffing and funding for the State disability determination agencies—total State agency staff increased 29 percent between fiscal year 1980 and fiscal year 1982, while funding increased 59 percent for the same period.

To monitor the performance of State agencies in making continuing disability decisions, SSA performs a quality assurance (QA) review. The review involves a random sample of recent State agency DDS decisions and is designed to determine the extent to which State agency decisions properly reflect the eligibility criteria in the law and regulations. Under this review, nearly 96 percent of continuing disability determinations in the 6-month period ending September 1982 were found to be correct. This shows that the accuracy of our CDI reviews is very good. Of course there is always room for improvement, and, as I will discuss later, we are undertaking a number of initiatives aimed at making improvements.

The CDI process has had some effect on new claimants for Social Security Disability Benefits. State agency initial case processing times rose from 44.6 days in the first quarter of 1981 to a high of 50.3 days in the first quarter of 1982. Processing times improved to 45.6 days for the June 1982 quarter and 47.3 days for the September 1982 quarter. I must emphasize though that, while processing times have increased in some periods, the accuracy rate for initial State agency decisions has undergone little change. Also, some of the increase in processing times is due to other

factors, such as the preparation of personalized denial notices as required under the 1980 amendments and steps we have taken to avoid abuses in the consultative examination process.

The large number of cessations as a result of CDI's has naturally had an effect on our hearings workloads. Total hearings requests have increased from almost 282,000 in fiscal year 1981 to almost 321,000 in fiscal year 1982. In March 1982, we received 31,000 requests, which is the most we have ever received in a single month.

We are projecting 357,200 requests for hearings in fiscal year 1983, an increase of 27 percent compared to fiscal year 1981. (Appeals are expected to level off to some extent once we have reviewed the existing disability rolls.)

As a result of the increases in hearings workloads, processing times have increased even though our staffing has also increased. Full-time permanent staff of the Office of Hearings and Appeals increased about 29 percent and funding levels for OHA rose 35 percent between fiscal year 1980 and fiscal year 1982. We hired 140 additional ALJ's in fiscal year 1982, increasing the size of the corps to more than 800. Also, we have a goal to increase the ratio of ALJ support staff from the past level of approximately four to one to a ratio of five to one. Nevertheless, there has been an increase in processing time for hearings, from 164 days in fiscal year 1981 to 174 days in fiscal year 1982.

Currently the ALJ's are allowing 52 percent of all cases where lower level decisions are appealed. The current allowance rate for non-CDI cases is 48 percent and 61 percent for CDI cases. This of course raises the question, "If our quality appraisal shows a 96 accuracy rate for initial State Agency CDI decisions, why is the allowance rate at the hearings level so high?"

There are a number of factors which can result in allowances at the hearings level, including the subjectivity of the decisionmaking process, the face-to-face contact between the beneficiary and the ALJ, the possibility of progressive worsening of the claimant's medical condition during the course of the various reviews of the claim, and the fact that additional evidence may become available at the hearing level for the first time. In other words, it is very possible that in the same case the State agency decision to deny benefits and the ALJ decision to allow benefits were both correct.

Unfortunately, we have also discovered a problem of incorrect decisions by ALJ's. This is partly attributable to a lack of uniform standards at different levels of adjudication. We are now in the process of issuing a series of Social Security rulings to remedy this problem. These rulings provide agency-wide guidelines for adjudicating disability claims and will promote uniformity in decisionmaking at all levels of adjudication.

Under our program of own-motion review, as required by the Bellmon amendment, the Appeals Council is now reviewing 15 percent of ALJ allowance decisions. This review includes both intitial claims and CDI cases. We are finding defects in 47 percent of the decisions we review. In approximately 18 percent of cases reviewed, these errors are so substantial that the Appeals Council must either reverse the ALJ's decision or remand the case to the ALJ for further action.

SSA'S INITIATIVES TO REFORM THE CDI PROCESS

Now I would like to tell you about some of the administrative actions we are taking to improve the CDI process. First, we are trying to upgrade the overall CDI process as follows:

We are refining our selection criteria so that more beneficiaries who are permanently disabled are identified and exempted from the 3-year periodic review process. In March, we identified several new categories of impairments—such as arthritis of a major weight-bearing joint in a person age 59 or over—which should be considered permanent, and, as additional experience is gained, we expect to add additional impairments to the list. This has cut down on the number of reviews and allowed more time to be spent on each case.

Beginning October 1, at the start of each CDI, we are conducting face-to-face interviews with disability beneficiaries in local Social Security offices. The interviewer explains the reasons for the review, the steps in the review process, the rights of the beneficiary and the beneficiary's responsibilities. The interviewer obtains information about the beneficiary's current medical condition and sources of medical care and records observations about the obvious effects of the beneficiary's impairment. This documentation provides a better starting point for the State agency in making its review. Also, in certain cases in which the beneficiary is clearly still disabled, the interviewer is able to end the CDI process at this point.

We believe this is an important initiative; it addresses an anomaly which had existed in the CDI process because face-to-face contact with the beneficiary had frequently occurred only at the ALJ level of appeal. This one flaw had been perhaps more to blame than any other factor for the "horror stories" of people who have been dropped from the disability rolls despite glaringly obvious disabilities. The personal explanation of the CDI process at the face-to-face interview is intended to reduce strain and anxiety for beneficiaries and to improve public acceptance of the reviews. Finally, the curtailment of some CDI's and the improved documentation in others is helping to relieve State agency workloads.

Since May 1982, we have been requiring State agencies to develop all medical evidence of record listed by the beneficiary for the past 12 months or to provide documentation as to why all evidence listed could not be obtained. Previously, we required development only of evidence which appeared pertinent to the CDI decision.

We have taken many actions to improve the quality of consultative examinations purchased by the Government in cases where medical evidence from a person's physician is unavailable or incomplete. I am submitting the attached description of those steps for the record.

Since March, we have required the States to more completely spell out in the case file the reason for a decision that a person is no longer disabled. In our view, this requirement helps to assure that the termination decision is a proper one and provides clearer documentation of the basis for the decision.

In recognition of the special limitations of the mentally ill, we have been reviewing all our policies and procedures for this group and are taking the following actions:

(1) We are issuing additional guidelines on the evaluation of long-term chronic mental disorders and are reevaluating the criteria in the listing of impairments for evaluating mental impairments.

(2) We are testing the use of multiple consultative medical examinations in certain cases, particularly those involving psychiatric impairments.

(3) We are encouraging the States to increase the number of psychiatrists on their staffs in order to enhance their ability to review cases involving mental impairment.

(4) We are attempting to improve decisionmaking by physicians employed by SSA and State agencies through training, particularly training regarding the evaluation of psychiatric impairments and in individual's remaining capacity to work in cases involving nonmental as well as mental impairment.

Second, we are improving quality control through the following efforts:

As part of our quality review process we examine a sample of CDI cases after a decision has been reached to see whether the disability is continuing or has ceased. To improve this procedure we are taking two steps: (1) in termination cases, we are conducting the quality review before benefits are stopped, and (2) we have doubled the number of quality reviews of termination cases—from 13,500 cases annually to 27,000.

We are studying terminations to ascertain what kinds are especially error-prone and are subjecting these kinds of cases to a more intensive quality review before a final decision is made. In the July-September 1982 quarter, approximately 550 erroneous cessations were prevented as a result of this review.

To demonstrate the importance of quality in the CDI process, we have established an interim accuracy goal for the State agencies without waiting for publication of regulations.

The third area where we are making improvements is in the CDI appellate process:

In general, we are determining that disability has terminated as of the date the beneficiary is notified of the termination. This change reduces situations where the beneficiary is faced with the need to repay past benefits because of a retroactive termination.

We are giving priority to appeal requests in termination cases.

Through improved training, upgraded equipment, and new workflow and organizational arrangements, we are increasing the productivity of hearing offices.

Finally, we have continuously monitored State agency resources and workloads to adjust the flow of cases as necessary.

Some State agencies have had problems acquiring adequate resources in a timely fashion. Where backlogs have risen because of circumstances beyond the agency's control, we have reduced or stopped the flow of cases and will continue to do so, if justified, in the future.

In August, SSA released only one-third of the normal volume of cases for review. In September, no new cases were identified and sent to State agencies by SSA for periodic review so that States could reduce their workloads.

In preparation for the implementation of the face-to-face interview in October 1982, several State agencies forwarded their backlogs to the local SSA offices. These States included: California, Colorado, Florida, Hawaii, Indiana, Kentucky, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Puerto Rico, Rhode Island, Texas, Virginia, West Virginia and Wisconsin,

As a result of these adjustments, we estimate that we processed 497,000 continuing disability cases in fiscal year 1982 rather than the 567,000 originally planned.

SSA expects to be able to reduce the numbers of cases that have to be reviewed in fiscal year 1983 to meet the mandate of the law from the 800,000 figure in our fiscal year 1983 budget to about 640,000. This represents a 20 percent reduction in workloads for State Agencies, The workload will be further reduced by whatever number of CDI cases are curtailed as a result of the face-to-face interview in the local Social Security offices.

LEGISLATIVE INITIATIVES

Next, I would like to talk about legislation affecting the CDI process. There are several proposals which we consider very important to guaranteeing the fairness of the CDI process and improving administration. We view continuing payment of disability benefits through reconsideration, and closing the record for evidence intraduced after the reconsideration decision as most important because they would achieve a fundamental reform of the reconsideration process. This reform would convert the reconsideration process from a largely paper-oriented review into a people-focused review and help assure that the first level of appeal of CDI terminations is equitable, quick and based on all available medical evidence, A more meaningful reconsideration process should also cut down further appeals which would help to reduce ALJ workloads.

Let me add that our introduction of an interview in the local office at the beginning of each CDI review serves a different purpose than a face-to-face contact at reconsideration. The initial interview relieves beneficiary fears about the process and results in more complete documentation of the person's impairment and capacity for work, but it is no substitute for an evidentiary hearing by the disability decisionmaker.

We also strongly favor a change in the present requirement that we review, on a pre-effectuation basis, 65 percent of allowances of disability benefits. We would like the flexibility to review whatever percentage of cases would result in the best quality of decisions in the most cost-effective manner and to review both favorable and unfavorable disability determinations to remove a built-in bias towards denials.

There are three provisions that we would very much like to see enacted but which are not part of any fundamental reform of the disability process. These are: emphasizing that Social Security law does not permit SSA to pay benefits until a final determination of entitlement is made; making several minor and technical fixes in the public disability offset provision enacted in last year's budget reconciliation legislation; and providing an explicit statement in the law of SSA's policy on the evaluation of pain in making disability determinations. While our regulations include a clear statement on the evaluation of pain, we have found that many courts are not recognizing the regulations in this area and an affirmation of our policy by the Congress would be very helpful.

Finally, there are two problems areas which have already been largely handled through administrative action. First, as I said earlier in my testimony, we have already taken administrative action to generally provide that disability benefits paid before the month the beneficiary was notified that benefits would terminate because the impairment was no longer disabling would not be considered overpayments.

Also, we have taken action to assure that the same adjudicative standards apply at all levels of adjudication. As I mentioned earlier, we have addressed the problem of different standards being followed at different adjudicative levels by publishing Social Security Rulings, binding on all levels of adjudication, to deal with the areas where different standards are applied. In November, we published 18 of these rulings and in January 1983 we will publish 12 more rulings. Publication of these 30 rulings will essentially complete our initial effort in this area although we will continue to publish new rulings as necessary in the future.

CONCLUSION

We believe that SSA's administrative initiatives along with enactment of the legislative provisions to strengthen the reconsideration process and give SSA more flexibility in its pre-effectuation review process represent a strong two-pronged

attack on CDI problems that have concerned the administration, the Congress, and the public during the last year or so.

I thank you for your time and I would be glad to answer any questions.

SSA Actions Taken to Improve Management of Consultative Examinations

Listed below are brief summaries of a wide range of actions taken to improve consultative examinations (CE's). These actions have been directed toward providing clear program direction on CE report requirements and maintenance of a quality process as well as establishing a more formal program of monitoring State agencies in this area.

Basic SSA policy was issued in Social Security Ruling 82-14, which covered CE physician qualifications, independence of CE physicians from other program or claimant relationships, content of CE reports, and physician signature on CE reports.

Detailed instructions have been issued to State agencies in the SSA Program Operations Manual in order to achieve improved CE reports nationally. These instructions cover a broad range of aspects of the CE process including: Selection of CE sources: arrangements for a CE, including provision of pertinent materials in file; report content and signature requirements; guidelines for review of CE reports; and specific medical specialty report requirements.

In the initial monitoring by SSA of State agency CE management processes, all States provide general descriptions of their practices for oversight of CE's as well as specific data on the "top ten" providers. These responses were analyzed and weaknesses in handling complaints, keeping records, maintaining ongoing oversight and other areas were identified. Regional Commissioners (RC's) then worked with each State to improve oversight. Status reports have been submitted from all regions.

In the second stage of SSA monitoring efforts, an indepth protocol was developed for reviewing all aspects of a CE provider's operation and the State agency's oversight of it. Joint SSA-State onsite reviews of 30 CE providers were completed by the end of April. A summary analysis is being prepared for each region of what was learned on the onsite reviews.

Administrative guidelines were issued to State agencies in a Fiscal and Administrative Letter. These specify what States must do in their oversight of CE providers. In addition, specific instructions were issued to RC's regarding the need to monitor State agency compliance with the administrative guidelines

State agency administrators and staff from 45 Disability Determination Services attended the first disability programs management forum in March. The forum included a series of workshops designed to allow administrators to share problems and solutions for managing the CE process.

Additional technical policy guidelines will be issued in the near future. Such issues as whether CE providers are bound by the Privacy Act and how CE providers should respond to requests for interrogatories by claimant's attorneys have been raised as we have explored the complaints of the legal community concerning CE providers.

We are developing a methodology for quality review of CE providers through the case review process. At present, review procedures do not provide for the sampling of cases by CE provider.

We are providing the Regional Offices on an ongoing basis with reports of providers suspended or terminated by the Health Care Financing Administration for fraud or abuse of Federal funds.

The States were surveyed to determine whether it would be advantageous to negotiate fee schedules with large CE providers. Because of poor public perception it was deemed not desirable/advantageous.

A central reference file is being developed to coordinate claimant/physician/attorney complaints and to coordinate responses and information with the regions.

Chairman Pickle. I thank you very much for your testimony. I know you have in your written testimony considerably more testimony there. You are asking that that be put in the record?

Mr. Simmons. No, sir, that is the end of it. I would just as soon drop the rest in the spirit of the hearing.

Chairman Pickle. All right. Let me ask the committee members if they have additional questions. Mr. Gradison, I will be glad to

recognize you on any point he has raised or any point he has not raised.

Mr. GRADISON. Thank you very much, Mr. Chairman.

First I would like to say I find this hearing extremely helpful, and I am very pleased that it has been possible administratively to pursue and put into effect many of the changes which we have discussed here and which I know are of concern to the administration as well.

I wonder whether these changes that you are outlining have been in effect long enough to show up in a statistical way that we could observe, with respect to some of the vexing issues we have had with regard to the percentage of denials and reversals in various ways along the line; number of cases pending, for example.

You did allude to that with regard to the backlog at the ALJ level, and I may have missed something else you said, but I am interested in any hard numbers you can give us, especially with regard to the reversal of initial determinations.

Mr. SIMMONS. If I could, I would like to make a point about the so-called reversal rate. You hear it very often from various members, you hear it from people in the advocacy groups, and you hear it just in street talk because people see it so much in the press.

They say two-thirds of the time our decisions are overturned. The fact is that number doesn't mean anything because that is two-thirds of those who appeal to the third level.

The real number that counts is the fact that of the bottom line of all of the people who are on the disability rolls or who remain on the rolls after review—80 percent of them are there because of State actions. Only 20 percent are there because their case was reversed by an administrative law judge down the line.

I think in any program where four out of five times the person is on the program because of the actions of the bureauracy that is adjudicating that case or is reviewing an initial application of that case, I think that speaks well for the program as a whole.

We would like to get to the position where 90 or 95 percent of the time those decisions at the earlier levels stand.

That is why we were so strongly in support of beefing up the reconsideration process and making that a more meaningful review. It is now a paper review.

We think if it were an evidentiary proceeding—and took place right there when the case was fresh, just coming from one part of the agency to a separate unit or to a Federal unit that would run that appeals system—then I think you would get a much better quality of decision and have many fewer problems and many fewer horror stories.

Another thing I would add is that the one number we do have, which is not complete yet from around the country, is the fact that our face-to-face up-front interview, which just went into effect October 1, 3 months ago, is already producing the result that about 1 in 20 of the cases are immediately being taken out of the process, and the beneficiaries are told they don't have to go through it.

We are catching some of those most obvious horror stories we didn't catch before, and which you saw on the front pages, because we are now seeing these people and not just looking at a piece of paper.

Mr. GRADISON. This is very helpful. I would like to try the question another way.

Are there certain statistics which are the basis of reports to the commissioner's office with respect to the operation of the disability program that you receive on a regular basis?

Mr. SIMMONS. We do get routine reports from the field: how many cases pending, that kind of a thing. We are also doing some studies on the characteristics of those who are being taken off. It is on that basis that we have been able to broaden the definition of permanently disabled, and there are some other regular reports.

Ms. OWENS. Are you asking the appeals numbers though? The actual numbers of appeals, or is it an overall statistical report you want?

Mr. GRADISON. What I am concerned about is this: In our own offices we find, in my district, that between 35 and 40 percent of all the case work we process involves social security disability. I don't think that is unusual. We continue to hear examples of people who are on the rolls. Somebody put them on at one time.

The initial redetermination says they are not entitled. Then that is reversed later on. We hear concerns about the delay in getting through the process and the backlog at the ALJ level.

I am just trying to think of some of the measurable aspects of these programs. What I am driving at is that I think it would be extremely helpful, if it is not already done, if you could provide to this committee and its staff the same statistical information which I am sure you need from the point of view of program administration so that we can track on a monthly basis the same things you are seeing about what is actually happening out there.

I am impressed with your statement and all the things you are doing, but I have no way of knowing whether it makes any difference in terms of the large number of cases until I see statistics on it.

I would assume you wouldn't go through all this if you didn't have some statistical means of measuring its effectiveness, so I am not asking you to do anything new, but I am asking if you could share with us data which you are already receiving and keep us on the mailing list, so to speak, while this issue is hot and until it gets resolved.

Mr. SIMMONS. We will do that, and we will work with the staff of the committee to find some numbers that they can use and that we can supply.

I must say that in some of our recordkeeping, it is abysmal what we don't know about our own programs. Part of that is a function of the system; part of it is a function of the fact that so much of what we do in this program, as in so many other programs is done manually and it almost requires a manual case-by-case review of the file folders to get the necessary information.

We have one building in Baltimore with 3 million file folders on disability cases; 3 million in one building. You can imagine the incredible amount of bodies it takes to run that shop. You can also imagine the incredible management problem it is. But we do have information we will share with you.

We have some regularly produced reports and some we can perhaps put into a format that your committee staff would find useful.

Ms. OWENS. We are beginning to code periodic review continuances and cessations by types of impairments. We have ongoing reports of the number of cases done by States, continuances and cessations per State, so we can furnish that to you on a calendar year basis for 1981–82.

As far as the more specific breakouts of the types of cases, we have just begun to collect that type of data, so we don't have a lot of that now, but we will be able to furnish that eventually.

Mr. GRADISON. That will be very helpful, I would think. It may be you are already providing all of these things. I haven't had a chance to inquire of staff. If you aren't, I hope you will.

Thank you, Mr. Chairman.

[The information follows:]

National
Accelerated & Total CDI's
May---December, 1981

	Accelerated		Total 1/	
	Continuances	Cessations	Continuances	Cessations
National	70,542	58,173	112,776	101,870

National
Periodic & Total CDI's
January 1---December 3, 1982

		Periodic		Total 1/	
		Continuances	Cessations	Continuances	Cessations
UNITED STATES		160,300	121,549	227,225	185,710
Boston	Connecticut	1,344	699	2,117	1,357
	Maine	1,199	719	1,487	1,058
	Massachusetts	5,172	2,267	6,662	3,552
	New Hampshire	990	428	1,286	584
	Rhode Island	447	212	841	492
	Vermont	529	247	800	415
New York	New Jersey	3,875	3,481	5,336	5,445
	New York	11,968	9,160	15,859	13,155
	Puerto Rico	2,666	7,223	3,767	9,632
Philadelphia	Delaware	275	36	500	144
	District of Columbia	309	137	476	270
	Maryland	1,911	841	2,576	1,338
	Pennsylvania	6,734	4,336	9,348	7,145
	Virginia	3,750	2,826	5,488	4,187
	West Virginia	2,516	1,748	3,299	2,466
Atlanta	Alabama	4,281	3,221	6,848	5,289
	Florida	5,803	3,510	8,137	5,793
	Georgia	5,162	4,219	6,805	6,304
	Kentucky	1,668	1,057	3,351	2,110
	Mississippi	2,966	2,325	4,580	3,505
	North Carolina	7,029	4,597	9,428	6,259
	South Carolina VR	3,089	2,111	4,285	3,075
	Blind				
	Tennessee	6,147	3,837	7,382	5,043
Chicago	Illinois	6,707	5,736	8,481	8,310
	Indiana	1,618	1,424	2,924	2,654
	Michigan	7,746	5,887	10,050	7,968
	Minnesota	2,829	1,524	3,478	2,100
	Ohio	9,598	6,408	11,540	8,588
	Wisconsin	1,451	1,147	2,569	2,478
Dallas	Arkansas	2,924	3,150	3,709	4,131
	Louisiana	3,259	3,596	5,786	6,682
	New Mexico	672	679	1,142	1,236
	Oklahoma	2,653	2,134	3,574	2,922
	Texas	6,500	5,774	9,167	8,752
Kansas City	Iowa	1,746	750	2,551	1,310
	Kansas	1,091	605	1,507	979
	Missouri	4,703	2,890	6,278	4,165
	Nebraska	1,210	702	2,034	1,157
Denver	Colorado	978	618	2,405	1,515
	Montana	645	485	844	682
	North Dakota	341	220	471	312
	South Dakota	621	182	828	260
	Utah	711	401	1,015	650
	Wyoming	202	79	296	130
San Francisco	Arizona	1,692	1,205	3,509	2,281
	California	13,770	12,722	22,863	21,908
	Guam				
	Hawaii	510	194	794	349
	Nevada	472	340	704	536
Seattle	Alaska	133	75	229	123
	Idaho	484	464	708	683
	Oregon	1,378	940	2,046	1,445
	Washington	3,906	1,981	5,070	2,780

Form SSA-2954 (7-78) (Formerly CO-1770) (Destroy prior editions)

1/ Includes medical diaries.

Chairman PICKLE. Mr. Shannon?

Mr. SHANNON. Thank you, Mr. Chairman.

Let me just say at the outset that I am very happy that you have taken these steps administratively and not just waited for us to pass legislation requiring changes in the system.

I think we have all been able to acknowledge there have been big problems in the disability system for some time. I am very pleased to see that you are doing everything you can within the administration to try to deal with them, and not waiting for us to act.

I would like to ask a question. I guess the same kind of question that Mr. Gradison asked, which is a statistical question, which is, how many reviews did you do, CDI's, did you do in fiscal year 1982?

Ms. OWENS. In fiscal year 1982, the total number was 496,000 cases.

Chairman PICKLE. 496,000?

Ms. OWENS. Right.

Chairman PICKLE. Ms. Owens, if you would speak a little louder into that microphone, it would help those of us who need to hear it.

Mr. SHANNON. I saw a letter Commissioner Svahn wrote to Chairman Dole in the Senate in which he said SSA would only need to review 640,000 cases in fiscal year 1983 instead of the 800,000.

Mr. SIMMONS. That is correct. That number may go down even more if we can even further broaden the definition of the permanently disabled.

Mr. SHANNON. He characterized this as a major reduction in the workloads for the State agencies. If 492,000 were done in 1982——

Mr. SIMMONS. We had the selective moratorium for 2 months of that year; so that figure is for only part of a year; 1981 was a shorter span because that was the partial year of the early startup, the March through October period. That was only an 8- or 9-month period.

Mr. SHANNON. It was only for part——

Mr. SIMMONS. Also, we budgeted——

Mr. SHANNON. At any rate, there is going to be an increase in workload on the State agencies?

Mr. SIMMONS. Over time. They have also had 29 percent more in personnel added and 60 percent more in Federal funding to handle the workloads.

Mr. SHANNON. The workload goes up but the personnel to handle them goes up more?

Mr. SIMMONS. That is correct, sir. Theoretically, they should be. Now, some States have had a problem——

Mr. SHANNON. Excuse me. Theoretically.

Now, do you know that to be a fact?

Mr. SIMMONS. I do know we have budgeted for 29 percent more in people and 59 percent more in resources for them for the same period.

Mr. SHANNON. All right.

Mr. SIMMONS. But what has happened is that in some States there have been startup problems where, for political or budgetary reasons, Governors and legislatures have enacted hiring freezes. Even though these are fully federally funded people they show up as State employees, and some Governors have not been able to staff

up. So, therefore, they have slowed down the process. That is why we are doing that selective moratorium in some States.

Mr. SHANNON. I guess that is a concern of mine. I suspect that there are a fair number of States who are in that situation. I am just wondering whether in fact we can say with any degree of certainty that the burden which has been placed on these States agencies is going to be alleviated substantially by——

Mr. SIMMONS. It will be alleviated in those cases where we can. We have to keep in mind that we have a 3-year limit.

I should mention in connection with that, one other part of the Senate bill which we will object to quite strenuously is the provision which would allow the Secretary, at his discretion, to violate the intent of the 3-year review that was mandated in the 1980 amendments. Our objection is that it transfers to the executive branch a budget authority which violates a legislative branch budget mark.

So this is a very convenient way, really, for the Congress to say, "You make the decision. We are not going to." Because, if the Secretary were to slow down the process to the point where, let's say, it was going to take 4 years, then he is going to be violating the budget ceiling set in the budget and we would be violating the administration's budget. And it would be left to the discretion of the executive branch only to make that decision.

Mr. SHANNON. Given that some of the States are going to have problems, in all likelihood even with the increased Federal assistance, some of the workloads on the States are going to grow because of their own financial problems, wouldn't it be wise to let the Secretary have this authority?

At least temporarily? So that we can make sure that the decisionmaking process is a fair one and that the burden of an increased caseload wouldn't result in the kinds of decisions we have seen in the last year or two?

Mr. SIMMONS. Our position would be that first of all, with a certain number of reforms, some of which we have done and some of which are pending in your bill, I don't think you will see those kinds of horror stories in anywhere near the numbers you have seen them before. But, second, on this issue, we have tried to keep in mind that the Congress decided all these cases should be reviewed in a 3-year period.

Now, if a device like this becomes law, it is a backdoor way of saying, "Well, we didn't really mean it, but we are going to keep the budget mark in our budget ceilings, but you go ahead and violate them if you feel like it."

I don't think that is a decision that should be made without the Congress making the basic decision on, whether it wants all those cases reviewed over a 3-year period?

I think it is something we should work out.

Mr. SHANNON. You disagree with the specific approach adopted by the Senate. Do you disagree with the intent of the approach, which is to slow down this process?

Mr. SIMMONS. By no means would I disagree with the intent of the approach.

There are 33 States, by the way, that are meeting the targets and handling the workloads. There are 17 that are having a prob-

lem. Those are the ones in which we are exercising the selective moratorium. But, on the general point, I do think if I had been here in the 1980 amendment period, for example, if I were representing the agency then, I think I would have protested the short span.

Mr. SHANNON. Let's look at it from the perspective of 1982 and let's acknowledge that we have only got a week and a half left of the session of Congress.

Chances are we are not going to be able to pass a major piece of disability legislation like the bill the chairman has been supportive of that contains many, many good features.

What is your advice to us? Should we try to enact some language that will require a slowdown of this process? Shall we take the Senate language? Shall we try to do something else, or should we do nothing at all to slow down this process in the next week?

Mr. SIMMONS. I think that is a decision the Congress as a whole is going to have to make. I would welcome negotiating that with the Congress.

I don't welcome the fiat being handed down this way and saying we are going to——

Mr. SHANNON. You have told us what you don't like. What I am trying to find out is, what do you like? You don't like what the Senate has done. Fine. We might have the opportunity to change that language sometime in the next few days and would like to work with you on that.

What we don't want to have happen is pass some language you find equally objectionable without at least giving you a chance to state your case.

I guess what I am asking you is, What is your case? What do you want us to do?

Mr. SIMMONS. Could I offer this, that if and when we send up our formal position on the Senate bill, we will include a treatment of that subject?

I want to talk to the Commissioner and I want to talk to other people.

Chairman PICKLE. I would request that you call us with some kind of position on this thing in the morning, say by noon, because if we give any consideration to it someone may want to talk about it even as early as tomorrow afternoon.

The Commissioner, I understand, will be in tonight sometime. Is he coming in on the Redeye Special?

Mr. SIMMONS. No. He is coming from the Redeye budget sessions.

Chairman PICKLE. Well, we need to know your position on it and what you could accept with respect to the Senate bill. Or, if you have any suggestion of an accommodation of that bill and our bill, a combination, or you want to take parts of it out and put it in, if you have any recommendation along that line, get it to us by noon tomorrow so we will at least have your recommendation.

Mr. SHANNON. Mr. Chairman.

Chairman PICKLE. Mr. Shannon.

Mr. SHANNON. I heard what you said about not wanting a Band-Aid approach; about wanting, if we are going to do things like extend benefits through part of the appeals process, and slow down this CDI process, that you would prefer to see some systemic

changes in the disability system similar to what is contained in Mr. Pickle's legislation. But I don't think you will be giving us a very useful response if you tell us that you want these things only in the context of that sort of legislation this late in the session.

Perhaps my colleagues disagree with me, but I don't think that there is any likelihood at all, or perhaps any chance at all, that we are going to be able to adapt that kind of far-reaching legislation.

I think we are going to have to work within the limits of the next week. We are going to have to work within the limits of what the Senate has done, considering language that extends benefits, and language that slows down the process in one way or another.

Then we will have to make a judgment on the Levin amendment. So I think those are the three areas we need your guidance on. It wouldn't be helpful to us in the least if your response says we only want these changes if you can do them in the context of far-reaching legislation.

Would you like to comment on that, Mr. Simmons?

Mr. SIMMONS. I am sorry.

Mr. SHANNON. Would you like to comment on that?

Mr. SIMMONS. No, sir. I understand your point of view.

Chairman PICKLE. In spite of the colloquy both Mr. Shannon and I have had with you, both espousing a little different approach perhaps, we do need to know what is your position with respect to the bill pending in the Senate and with respect to H.R. 6181 in any and all aspects of it.

And we need to have it as soon as possible. I do not subscribe to the position, Mr. Shannon, that we can't do anything about the major bill. I rather imagine that there is a 95-percent agreement on both the things, both of these two measures. If there is any way reasonable Congressmen can get together without trying to carry the flag for each side, it ought to be done. It would be difficult to do that, or maybe very difficult until—I don't hold that as a hope or offer. But it ought not to be precluded from our considerations.

But, if you have something in the Senate bill you like or sure don't want to live with, I want to know what your position is because it may be considered.

I must say, Mr. Shannon, too, that there is a possibility the Senate bill will not be considered. Here again it is going to take understanding and cooperation on everybody's part to see if anything can be worked out.

Mr. SHANNON. If I could, Mr. Chairman, I understand that possibility. I just want to make sure we have the guidance of the administration as to what they can best live with if we are able to take up this question of slowing down the CDI's within the next few days.

Mr. SIMMONS. You know, you bring up the question what can we live with. What can the program live with?

The program has spent 15 months being looked at and argued over and fought over. It became a campaign issue. We got no action.

It has been very frustrating—I can say in all candor—very frustrating to us to have the means at hand that we and our program experts believe will fix all of these things and we can't get it passed.

If we just do another band-aid approach and don't do anything, then it is going to be that much harder to do something when the time comes because, under the Senate bill, for example, this whole business could slip over into the Presidential election year and off we go again.

I just don't understand why as a matter of public policy that after 15 months and 12 hearings, not to mention all of the field hearings that have been held around the Nation—one-person hearings all around the country on the issue, why we can't get a consensus on some constructive changes. I just don't understand.

I say that in a fit of candor and hope I haven't offended the committee's sensibilities because I know the committee tried very hard to get something out. But we think for the good of the people we serve and for the good of the taxpayer who is paying the bill, that something has to be done more than just putting the problem off again.

That is why we are so strongly in support of the kinds of things that are in H.R. 6181.

Chairman PICKLE. I appreciate your candor, Mr. Simmons. That is what we want to hear.

Mr. Archer, do you have any questions?

Mr. ARCHER. No questions, Mr. Chairman.

Chairman PICKLE. Well, Mr. Simmons, I want to thank you. The disability program has received a great deal of criticism the last year and a half, some justified, I might say, as I think we all know.

Mr. SIMMONS. We agree.

Chairman PICKLE. Your testimony this afternoon indicates to me that you have made a lot of changes, and that you are making improvements to the procedure, and that a lot of good has been done and that we are hearing less of the horror stories, and I am pleased.

I know a network the other night ran one of the horror stories, one of those series. I haven't had a chance to see it so it is difficult for me to comment on it, but the people who have heard it up here associated with this think it was an exaggeration, extreme in some instances. Perhaps to confine the issue at—it was dramatic and graphic, but the question of a disability case is far more than a drama as such.

It may be an individual's life. All we are asking is that we handle these cases with dispatch and with fairness and with equity and try to be fair about it.

I am not happy that these things occur, but nevertheless, they will occur again, I am sure.

Mr. SIMMONS. Any horror story that does get exposed and that points out another failure in the system, we welcome the chance to fix it. Then we hope we can get the system fixed so it won't happen again.

Obviously, we are always going to be making mistakes. There is nothing you can do on this scale that is not going to lead to mistakes, but we do want to fix them.

I had an occasion to talk to a group of journalists the morning after that CBS network piece. I made the remark that the one thing my biography before them did not say was that after last night's performance, I am now parting my hair in the middle.

Chairman PICKLE. I didn't hear that.

Mr. SIMMONS. I said that after last night's hatchet job, I am now parting my hair in the middle.

Chairman PICKLE. Well, I want to get a copy and look at that broadcast.

Here again, we are subject to review of what we do, and agencies are subject to review of what they have done. Some of the things you have done in the last year and a half have been horror stories. I am sorry that they have picked out some of those horror stories and not given credit for the 95 percent of the good things that we do, but that is part of it, of our program.

I would agree with you that I hope if we, if we can find we are doing the job and making the improvements to all people that is fair and equitable, particularly disability people, that we get a positive story on the good things we are doing.

I thank you, and I am glad to get you on the record, and hope to hear your position before noon.

We have other questions. We will be submitting questions to you in writing and hope you would respond quickly.

[No further questions were submitted.]

Chairman PICKLE. We have a vote now.

[Whereupon, at 3:10 p.m., the hearing was adjourned.]

○